

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 8, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Steve Duvall, Barbara Hopkins, Linda Hunter, Gerry Krieser, Patte Newman, Tommy Taylor, Greg Schwinn and Cecil Steward (Russ Bayer absent); Kathleen Sellman, Kent Morgan, Ray Hill, Mike DeKalb, Steve Henrichsen, Ed Zimmer, Rick Houck, Jennifer Dam, Mike Brienzo, Nicole Fleck-Tooze, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Vice-Chair, Greg Schwinn, called the meeting to order and requested a motion approving the minutes for the meeting held February 23, 2000. Motion to approve made by Duvall, seconded by Krieser and carried 7-0: Duvall, Hopkins, Krieser, Newman, Taylor, Schwinn and Steward voting 'yes'; Bayer and Hunter absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Duvall, Hopkins, Hunter, Krieser, Newman, Taylor, Schwinn and Steward; Bayer absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3240; COMPREHENSIVE PLAN CONFORMANCE NO. 00001; FINAL PLAT NO. 99008, EDENTON NORTH 4TH ADDITION; and WAIVER OF DESIGN STANDARDS NO. 00001.**

Hopkins moved to approve the Consent Agenda, seconded by Duvall and carried 8-0: Duvall, Hopkins, Hunter, Krieser, Newman, Taylor, Schwinn and Steward voting 'yes'; Bayer absent.

Note: This is final action on the Edenton North 4th Addition Final Plat No. 99008, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 3237
TEXT AMENDMENT TO THE TITLE 27
OF THE LINCOLN MUNICIPAL CODE
REGARDING NEIGHBORHOOD DESIGN
STANDARDS IN THE R-4 THROUGH R-8
ZONING DISTRICTS; AMENDING LOT AREA
REQUIREMENTS; INCREASING OPEN SPACE
REQUIREMENTS; AND ADDING ADDITIONAL
HEIGHT AND AREA REGULATIONS REGARDING
FRONT FACADES IN THE FRONT YARD SETBACK.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Planning staff recommendation: Approval.

Jennifer Dam of Planning staff submitted a packet of 25 additional letters in support of this text amendment.

Proponents

1. Kent Seacrest, member of **Antelope Valley Study Team**, testified in support. The Antelope Valley Study Team has worked on a strategic plan for 600 inner-city blocks of our community. This is the historic part of our community. Most of the Antelope Valley effort is attempting to look at non-mortar and brick solutions. They created a subcommittee represented by 12 different neighborhoods in the core of the City. Their efforts have concentrated on high density design because high density with poor design becomes the evil that hurts cities. It creates parking problems, transportation problems, crime problems, sewer problems, water problems, public health problems, and high turnover in schools. If we could get a better higher density to work in our core along with proper design standards, we could improve the quality of life. This subcommittee worked on 14 different strategies from parking programs, to alley programs, etc.

2. Jon Carlson, **President of Near South Neighborhood Association**, testified on behalf of the 14 co-sponsoring neighborhood organizations. They have entitled this the "Neighborhood Character Preservation Initiative" to protect the residential character of older established neighborhoods, within the perimeter marked by the city limits as of 1950. This perimeter was chosen to address the changes to the city core. Development outside of this area would be unaffected by this proposal. The 14 sponsors make up the majority of neighborhoods within the proposed perimeter area. In addition, this measure is supported by two additional neighborhood associations, the City's Urban Development Department, the Preservation Association, and REOMA (Real Estate Owners and Managers Association).

Mr. Carlson testified that the proposed changes do not represent a drastic overhauling of the regulations. It attempts to address the “tipping point”. Carlson gave an example of the “tipping point”. Change does not always happen the way we expect. We expect things to be proportional to one another, but that’s not what happens. Crisis does not reach step-by-step but arrives all at once. Our neighborhoods seem fine until we wake up and find them undesirable places to live. Small changes can bring big results.

There are three components to this proposal: 1) increasing open space, 2) removing the large lot bonus, and 3) incorporating design standards that currently exist in the R-C Residential Conservation District. Park land and recreation are already at a premium in the R-5 to R-8 districts. Greener more open development would ease the burden on these facilities. Removing the large lot bonus discourages a developer from buying single lots in order to assemble super lots in the city’s interior. Diversity of tenants and owners does much to make up the character of Lincoln’s established neighborhoods. Higher density has a huge impact on the infrastructure. All of these factors contribute to destruction of the character of neighborhoods.

The proposed Neighborhood Design Standards will encourage rehabilitation of existing houses while allowing new construction that is compatible. Design elements addressed by design standards include: 1) orientation of windows and entrances outwards toward the street; 2) height and rooflines similar to existing houses; 3) parking in the rear of the building, etc. This is not burdensome or overly bureaucratic. The design standards change the design elements that can tip neighborhood balance from cramped to a greener more community oriented type. This change will help preserve and rehabilitate. This legislation will promote a greener more livable community and discourages development on already stressed areas.

Schwinn noted that the proposal talks about not having balconies extending into the front yard, yet one of the pictures shown was a house with nothing but balconies. Carlson agreed that the 1920 house does have a porch and second story balcony. He explained that the proposal would not outlaw balconies, but removes the roof as being counted as open space.

Steward inquired whether, in the context of the comment about density, the applicant has studied the impact of the density on these zones on a zone-by-zone basis. Implementation will decrease the option and the opportunity for density is his thought. Has the applicant studied the impact of potential net density prior to and after implementing these standards? Seacrest responded, stating that the city had a multi-departmental group working on this issue including Police, Health, Planning, Urban Development, etc. He knows that they looked at it and their consensus was that they are seeing a correlation between density and quality of life and urban problems. They felt there was a density problem in certain core areas. This proposal is not a downzone—we are trying to get rid of the incentive for developers to buy and acquire multi-lots, replacing them with higher density. Under the existing ordinance, the bigger the lot, the more density you get per sq. ft. We don’t want

to reward that type of behavior. Let's make it neutral. Whether it's one or two lots, the amount of units you get per sq. ft. will be the same. We are not penalizing it. We are just saying no matter if you have 2 or 10 units, each unit has to have the same amount of green open space. Steward thinks that propagates a low density. Seacrest disagreed. The amount is the same. We have not reduced the density. We will not reward anyone for putting a bunch of lots together. Higher density with proper design does work. Dam clarified that the open space requirements are not the same as single family. The open space requirements are based on multi-family requirements. R-5 through R-8 multi-family uses are still available. You just would not have as many units as are currently allowed.

Steward believes that in effect it is a reduction of density. Dam agreed, but she does not believe it is a considerable reduction. Carlson suggested that it keeps the linear component.

Newman has heard a criticism that this legislation is not inclusive enough by use of the year 1950 and that it does not include the R-1, R-2 or R-3 Districts. Seacrest explained that they chose Lincoln 50 years ago because that is when properties were eligible for historic designation. We were concentrating on the older historical neighborhoods because they are more at risk in the short term.

Twelve people stood in the audience in support.

3. Peter Katt appeared on behalf of **Lincoln Board of Realtors** in a neutral position. They were contacted about a week or 10 days ago by the applicant. This item would normally go through their Governmental Affairs Subcommittee which has a meeting this Friday. At a minimum, the committee will discuss this plan and would request a deferral with continued public hearing in two weeks to allow the Lincoln Board of Realtors to respond.

4. Curt Donaldson, 2860 R Street, testified in support on his own behalf and on behalf of the Hartley Neighborhood Association. He believes the proposal needs to be extended to neighborhoods which are duplex-zoned because we are now beginning to see large duplexes built with poor orientation, e.g. there is one on A Street with four garage doors across the front. With regard to the large lot bonus, there are a lot of people who take credit for good ideas, but since he has a ghost like existence these days he would like to take credit as the author of the large lot bonus back in the 70's. He came up with the idea and agrees that it is no longer a good idea.

5. Steve Larrick, 920 South 8th, testified in support on behalf of **South Salt Creek Community Organization**. This is very important for their area because South Salt Creek is where the water converges. They are in support of any way to keep density while maintaining some green open space and somewhere for the water to go.

6. Julie Post, City Urban Development Department, testified in support. Inappropriate zoning in what were once single family residential areas comes up often in her work. The Urban Development Department attempts to revitalize older neighborhoods. They did a study of the R-4, R-5, R-7 and R-6 zoning. Many of these areas were built as single family areas and have become multi-family areas. This text change will not decrease density, but it will hold the line on density, which is necessary.

7. Dan Marvin, Treasurer and part-time secretary of Country Club Neighborhood Association, testified in support. This organization covers 2,400 households.

Opposition

1. Danny Walker, 427 E Street, past president and current board member of South Salt Creek Community Organization testified at this time. He was at the February meeting of the South Salt Creek Community Organization and there was no vote taken to support or oppose these recommendations. However, the packages handed out to the association already showed his neighborhood endorsing this package and he thinks that is strange. Within the last year an individual from the Planning Dept. approached his group and said they are trying to do away with the garages in the front. He does not like that approach. He is confused in regard to “less than full lots”. There are numerous houses in his neighborhood that are over a hundred years old built on less than full lots. What happens there? With regard to parking, it is stressed. The Near South and Everett neighborhoods complained about cars parking in front between the curb and the sidewalk. The law was changed and as a result, his neighborhood was victimized because of the simple fact that many of the older homes in his neighborhood have no place else to park. Walker reiterated that he was at the neighborhood meeting and there was no vote taken in support or in opposition. There was one individual that spoke in favor, but other than that there was very little discussion on the package.

2. Mike Morosin, past president of Malone Neighborhood Association, testified in opposition. He remembers this discussion during Antelope Valley and they asked, “Why not R-1 through R-7?” Those questions were never answered. We were never notified of any further meetings. The neighborhood did get a phone call to support this but could not because they felt there were some changes that needed to be made. Let’s make it all inclusive. Let’s not include neighborhoods unless they are positively on board.

Staff questions

Steward’s concern is the net community impact beyond the neighborhood associations. He is in favor of preservation of neighborhoods to the extent possible, but where in the longer term future, and how do we plan for increased central city density in the face of the so-called “holding the line” with existing densities? Dam does not believe this reduces the density in the central part of the city considerably. Steward is talking about even greater density. He is talking about a future for this city that we have not faced up to. This causes us to say are we, when do we, and how do we have the conversation within the community

that asks the question, “can we afford to continue the sprawl at the edges, and if we cannot, when and where do we create higher densities to account for the growth?” Dam explained that this legislation is the result of the neighborhood concerns about the higher densities. The question of sprawl is a bigger issue than this text amendment. Multi-family development would still be allowed in these areas. We have not had the discussion or the support for even more dense development in the inner city. We have been hearing for three years that the level of density that we have in the inner city today is a problem. The neighborhoods are proposing this as a result of those conversations. Steward wants to know the net consequence.

Schwinn noted that there are some medium rise buildings that have been in existence in these neighborhoods and some of them are historic. How does this proposal impact something like that? Dam responded that this legislation only applies to new construction. Schwinn wanted to know whether something could be replicated. Dam stated that it would not be allowed if the structure is on a portion of a lot. Ed Zimmer of Planning staff explained that the Neighborhood Design Standards have been in the code since 1989 in the R-C Residential Conservation District overlay. They don’t set an absolute limit on height—they look at the surrounding buildings for height. It sets a bottom below which you cannot push the height, but in an area that had taller surrounding buildings, you could base your new proposal on those and meet these standards. There is also a built-in appeal process through historic preservation. However, Dam does not believe a structure could be replicated and meet the parking and density requirements.

Schwinn then referred to “less than full lots”. Dam stated that these changes have nothing to do with less than a full lot. There are provisions made for lots of record, but these changes would not affect existing properties on partial size lots. If something burned down there are provisions in the ordinance for continuation of nonstandard uses.

With regard to parking in the front yard, Dam explained that it is allowed in R-1 through R-4, not allowed in the R-5 and above. It has been that way for a long time. What Mr. Walker referred to was enforcement of parking in the right-of-way. This proposal has nothing to do with that situation.

Schwinn noted that there are parcels that were not built for people with cars.

Newman asked staff to explain why it is difficult to compare Near South to Meadowlane. Dam stated that there are parts of older neighborhoods that have R-1, R-2 and R-3 zoning. The type of development in those areas is very different than those neighborhoods in more suburban type development. In the older parts of town, a lot of houses have detached garages. Newman wondered why a “one size fits all” design standard like this does not apply to R-1 and R-2? Dam stated that these design standards could be applied to R-1 and R-2 in the older areas, but that proposal was not submitted. It would be difficult to apply these design standards to places such as Meadowlane and Trendwood.

Hopkins was concerned about notification and communication. Is there something that could be added to the process to share communication? Dam explained that the application represented that it was being made on behalf of the various associations. The checks received in payment of the fee were from each of the associations. Hopkins wants to make sure that staff is communicating that the Planning Commission is going to expect communication. Dam stated that the staff does advise all applicants that they need to get out and talk with their neighbors and interested parties. Hopkins wondered if we get the same message across when the neighborhood is the applicant.

Response by the Applicant

Carlson admitted that he did not get the final draft to the realtors sooner, but he did take a copy to them as soon as it was available. Before that time there was not a finalized draft available. In hindsight he agrees that he should have taken them a draft in progress. As far as South Salt Creek, the final meeting of the density committee on Antelope Valley was late spring or early summer last year. At that point, some of the items were brought forward and issues were taken to the various neighborhoods. He did speak with PC Meza on behalf of South Salt Creek and he made a presentation to the Mayor's Neighborhood Roundtable in November of last year. When the zoning application was made, the sponsoring neighborhoods were indicated based on the conversations he had and the checks he had received.

Carlson has talked with the Board of Realtors and he will attend their governmental affairs meeting this Friday.

Hopkins commented that coalitions are hard and she appreciates the work he has put into trying to involve so many people. But we need to provide drafts in progress for input as opposed to presenting a final draft. Carlson agreed. He is not opposed to the two-week delay.

Newman inquired whether there is any way we could include anything in this legislation for R-1 to R-3 in two weeks. Schwinn believes there was fundamental change in our concept of how we grow cities in 1950. There are a lot different lot sizes, structures, street layouts, etc. But, Newman believes it is also part of UPCO and ECCO. It is definitely a neighborhood-by-neighborhood issue.

Hopkins moved to defer with continued public hearing and administrative action on March 22, 2000, seconded by Duvall.

Steward moved to amend to delay for four weeks for April 5, seconded by Krieser. Steward sees no rush. This raises a much more fundamental set of issues than what affects only these neighborhoods. This puts him in a very awkward position because he is being forced to speak somewhat against the proposal in its current circumstance for design standards and for preservation. His concern is that as long as we have a

comprehensive approach, what do we do with the densities that we now have? If we set some of these existing densities even more strongly into a characteristic which leaves little flexibility to accommodate growth other than continuing to spread at the edges, it has a net effect, in his opinion, of overlooking what we are trying to preserve. He wants to look at this in an interconnected comprehensive way.

Hopkins accepted the motion to amend as a friendly amendment to defer for four weeks.

Hunter is opposed to the delay. We are constantly crying about street widening and over density inside the city, and then we talk about increasing density inside the city. How are you going to pay for new wider streets? With Lincoln growing at the rate that it is, you can't just forever grow up – you can't just make the bubble continue to hold so many more people. When protecting neighborhoods, she does not believe this text amendment is strong enough. When people put single family residences in these areas, it was because they wanted a neighborhood. In terms of what happens when somebody puts an apartment building next door to your house, what happens to the value of my property? If you are seeing flight from urban areas, it's because people are still seeking to find a neighborhood. Restricting density is not at all offensive to her. If you want the city to be rebuilt—if you want people to buy houses and rehab them--they are going to have to have a reason to do so. Lincoln has a very unique ability to retain the feeling of a small town, even though it is a very fast-growing small city, but if you lose that, she believes there will be more flight out of the city when more dense development comes. If we are talking about increasing density, she does not want to be around when the next person comes in and does not want their street widened.

Motion for four week deferral until April 5, 2000, carried 7-1: Hunter, Steward, Hopkins, Taylor, Krieser, Duvall and Schwinn voting 'yes'; Newman voting 'no'; Bayer absent.

CHANGE OF ZONE NO. 3241
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT NORTH 84TH STREET AND WAVERLY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Planning staff recommendation: Denial.

Proponents

1. **Mark Hunzeker** appeared on behalf of **Pearle Finigan**, the owner of the subject property. This is a parcel served by a paved county road west of Waverly. It is one of the few areas of the northeastern part of the county that has good water. There is a strong

demand for the lots on the property directly to the northeast. With the quality of water obtained there, together with the letter from Mr. Dreeszen indicating his belief that there is likely to be good water on this site, Hunzeker thinks there will be good water found on this site. The applicant had hoped to have test wells drilled and water quality reports back before this hearing but was unable to get that accomplished. There is a high demand for acreage development in this area. There has been a fair amount of acreage development in this area, most of which is concentrated along Waverly Road, much the same as the pattern we have had on South 56th Street or on West Denton Road, taking advantage of good access into Waverly. He will bring forward a plat as soon as possible. They have shown a preliminary sketch. Access will be addressed at the time of the preliminary plat.

Hunzeker suggested that this is an opportunity to develop an acreage subdivision in an area that has not been developed at the pace that we have in the southeast and southwest portions of the county. The primary reason it has not developed at the same pace is the water issue, but he believes this parcel has good water and is one of the few opportunities out there for acreage type development near Waverly.

Opposition

1. Steve Harding, 8000 Waverly Road, which is right across the street, testified in opposition. He takes issue with the water. He has lived there for 10 years and he has had two wells go dry and the water quality is not good at all. When he moved out there, it was all 20 acre lots. The sprawl on the other side of Waverly Road on 56th Street does not look very good. Finigan Estates ½ mile away does not appear to have much new development. There appear to be a lot of lots available. There are only two residents from 70th to 84th Street and he is afraid of the acreage development across the street. The proximity of the city landfill is a problem. He cannot believe those lots will be great because the south wind on a warm summer night will filter odors from the landfill to the property. He questions the appropriateness of this land being used for acreages. Harding has an underground sump, leach field. No has not experienced problems with percolation, but he gets it cleaned out often. Harding is not farming his property. He has 15-16 acres in alfalfa for his horse. His property is 4-5 miles from Waverly. He is in the City of Lincoln jurisdiction.

Staff questions

Hopkins inquired as to the amount of property zoned for acreages and available in the county. Mike Dekalb of Planning staff advised that Lancaster County has 22.5 sq. mi. shown for acreage development. About half of it is currently zoned and in the process of some form of development. There are generally about 1,700 lots in the county that are available. There is a 20% vacancy rate of existing parcels under 20 acres. In AG zoning, the developer has the option of doing cluster development. Of the existing 12 incorporated towns, about half of those have 2-5 acre lot sizes. In this particular quadrant of the county, northeast of Lincoln, north of Waverly and east of Hwy 77, a the number of acreages is

quite low and that is a circumstance where groundwater in the area has been a problem historically.

Steward noted the staff analysis that the Comprehensive Plan update is starting and this proposal is premature. Does this comment from staff indicate that we can expect a different or new approach to acreage designations in the Comprehensive Plan update? Dekalb stated that the acreage issue will be a major review issue during the Comprehensive Plan update.

Schwinn doesn't believe the Commission has supported 3-acre lots. Dekalb noted that there have been a lot of cluster developments. This one is pretty much straight lot and block without any bells and whistles.

Response by the Applicant

Hunzeker requested a two-week deferral to make sure they have the water reports in hand. Finigan also owns the farm across the road to the east which has an irrigation well which has been pumping for quite a long time.

Hunzeker observed that this is an area where we really haven't had much opportunity for people to live in this fashion in this part of the county. With regard to the Finigan Estates lots which are vacant, Hunzeker advised that they have all been sold to prospective home owners who intend to build on them. There is a waiting list of people who want to purchase lots in this subdivision.

Steward asked Hunzeker whether there is a chance that his client would consider a cluster configuration rather than straight lot or is this economically driven? Hunzeker believes there would be a chance but he does not know to what extent they would be interested. He assumes those on the waiting list assume the lots will be something on the order of Finigan Estates. He has not discussed it with his client. The lots in Finigan Estates are three-acre with individual well and septic system, with plenty of water to Hunzeker's knowledge.

Krieser moved to defer for four weeks to April 5, 2000, seconded by Duvall and carried 8-0: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn voting 'yes'; Bayer absent.

CHANGE OF ZONE NO. 3232
TEXT AMENDMENT TO ALLOW THE
STORAGE OF VEHICLES FOR SALE IN THE
FRONT AND SIDE YARD IN THE B-3 COMMERCIAL
DISTRICT, H-2 HIGHWAY BUSINESS DISTRICT
AND I-2 INDUSTRIAL PARK DISTRICT
and
SPECIAL PERMIT NO. 1818
TO PARK AND DISPLAY VEHICLES IN THE
SIDE AND FRONT YARD ON PROPERTY
GENERALLY LOCATED
AT 702 WEST "O" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Planning staff recommendation: Denial.

Proponents

1. Michael Rierden appeared on behalf of the applicants. He withdrew Change of Zone No. 3232.

With regard to the special permit, he revised the application to refer to the storage of vehicles for sale in the front yard only (deleting the request for the side yard).

Rierden submitted pertinent portions of the parking ordinance, pointing to the fact that parking in the front yard is permitted in the B-1, H-1, H-2 and H-3 zoning districts. Therefore, parking is allowed in the front yard in this application. In 1997, the city passed section 27.63.700, a provision in the special permit section of the ordinance, which provides that the storage of vehicles for sale or resale in the H-3 may be permitted on any portion of a lot where parking is permitted. Under this special permit, the applicant is seeking to be allowed to display vehicles in the front yard. This is a car dealership.

As far as the staff's recommendation of denial, Rierden believes that the rationale is somewhat weak. Rierden disagrees with the staff analysis. This is an entryway to Lincoln from the west, but it has always been an entryway and it is a business corridor. If you drive up and down West O or O Street, you are going to see that car dealerships are all out to the extent of barely missing the sidewalk itself. His client is attempting to go through the system and abide by the regulations and get a special permit to do that. Most dealerships in town, with the exception of Lincoln Dodge, do not comply with this provision. He submitted several photographs of the improvements his client has made to the subject property.

Opposition

1. **Peter Katt** appeared on behalf of **Ron and Walt Hutchinson**, the owners of **Popeye's Chicken** facility directly west of this proposal and they have been located at that site for in excess of 21 years. Since there is not a site plan available that shows just the front yard, they do not know the extent of the amended application. The building plans for the subject property clearly delineated the areas within which the used cars could be displayed, so there was no surprise to the property owner where and how the vehicles could be displayed. Katt displayed photographs taken shortly after the applicant's purchase of the property showing where the vehicles were parked. Building & Safety was then asked to enforce the zoning ordinance.

Katt pointed out that this is a special permit—it is not by right. The zoning ordinance does not authorize display of vehicles without a special permit.

2. **Ron Hutchinson** testified in opposition. He is convinced that putting the vehicles along the extremities of the lot line, and in particular, the front yard, would have a negative impact on his property value and the business. It is not like cars that park over a lunch hour. They are there 24 hours a day and it is overwhelming. He is content with the display area allowed in the H-3 zoning. Had the property been built when Popeye's was built, the front yard would be more stringent. They were required to build an access road in front of Popeye's and they were told that would be required of all the properties. Parking of the cars out to the front property line on O Street reduces the value of the Popeye's business and obstructs potential customers.

3. **Rich Wiese**, 730 Pier 3, chair of **West O Area Business Association**, testified in opposition. The Association has worked strong for a beautification program during the widening of West "O" Street, and is still doing beatification on West "O". If this special permit is allowed, it definitely puts the burden on the property owners along there. The encroachment should not take place. The owner of the automobile business knew the zoning and knew the boundary lines. Do not let them encroach any further. There is another encroachment of a car dealer to the west who does not have a permit. No one has complained yet. The West O area is growing and changing for the better.

Response by the Applicant

Rierden seriously doubts that the West O Business Association represents the sentiments of most of the property owners and businesses in this particular location. He submitted a portion of the sectional map showing the lots along West P and West O, identifying the property owners who have signed petitions in favor of this special permit. His client has taken a dilapidated area and vastly improved it. He wants to make sure that West O continues to be beautified and continues to grow. If this special permit is approved, the applicant will comply with all the conditions of approval.

Public hearing was closed.

CHANGE OF ZONE NO. 3232 -- APPLICATION WITHDRAWN

SPECIAL PERMIT NO. 1818, AS REVISED

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 8, 2000

Hopkins moved to deny, seconded by Krieser.

Hunter is concerned about the setback at Popeye's Chicken location. She believes that the Popeye's owner is being negatively impacted for complying with the regulations. She believes the Commission should discuss some consideration of compromise for Popeye's Chicken.

Hopkins does not know if the West O Business Association is getting any assistance but it seems like there should be some sort of format similar to what happened on No. 27th Street. She encouraged that they make contact to find out what kind of assistance might be available.

Schwinn supported the Lincoln Dodge application and he is pleased with what they have done. He likes the idea that we have a condition that makes them conform to the design standards for the landscaping, which he believes will improve the landscape on West O Street.

Motion to deny carried 6-2: Hunter, Steward, Hopkins, Taylor, Newman and Krieser voting 'yes'; Duvall and Schwinn voting 'no'; Bayer absent.

Note: This is final action by the Planning Commission, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COMPREHENSIVE PLAN AMENDMENT NO. 94-48
TO CHANGE THE LINCOLN LAND USE PLAN
FROM COMMERCIAL TO LOW DENSITY RESIDENTIAL
GENERALLY LOCATED EAST OF 70TH STREET,
BETWEEN PINE LAKE ROAD AND HIGHWAY 2.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Planning staff recommendation: Approval of an alternative plan.

Steve Henrichsen of Planning staff submitted an additional letter in support.

Proponents

1. Dr. Michael Eppel, appeared on behalf of the **Southeast Coalition of Homeowners**, one of the applicants. The coalition is a group of homeowners associations including Southfork, Family Acres, Country Meadows, Pine Lake, Amber Hills, Portsche Heights, Clarendon Hills and Yankee Ridge along with Sheldon Heights. This is a request to reconsider the prior Comprehensive Plan amendment which allowed for a commercial designation at 70th and Hwy 2. This application is made because they believe the applicant, Livingston Properties, was misleading in some representations made to the City Council in the past. They have stated repeatedly that this site “is not going to be residential”. There is no evidence or data to support that statement, only talk about traffic dictating it. There are large single family homes directly to the east and west of this site. Southfork is to the northwest, again on an area not too unlike the one in question where there is going to be a four-lane highway intersection.

A second reason for this request is that Livingston Properties has repeatedly shown a lack of respect for the planning process and a disdain for the Comprehensive Plan itself. Their application for the change in designation was turned down nearly 8 times over the years, yet their only response was to return yet again requesting the same amendment. The last time this was in a somewhat underhanded manner and the neighborhoods had very little time to respond. They were successful, but at what cost? Are we to assume that all a developer has to do is keep coming back with the same application until they succeed? What kind of message does this send to the community about the planning process? How does the Comprehensive Plan protect homeowners thinking they were protected from commercial development and sprawl? Remember, the Comprehensive Plan was drawn up by professionals and with the help of numerous citizen groups. Are we to assume that their recommendations count for nothing? Personally, he knows of no other city of comparable size where the planning professionals are ignored in such a fashion.

Thirdly, not only did Livingston persist with the original plan, but they have chosen to ignore the Council recommendations that were made at the time the amendment was passed. Initially, an auto mall was being considered, but at the City Council meeting it was made clear that such a development or any similar type development would not be acceptable. Nevertheless, the applicants have sought out Walmart. They then addressed Home Depot. The latest information is that they are still talking about an auto mall. This would undoubtedly contribute to the sprawl and would affect the property values.

Finally, we understood from the prior City Council and the Mayor that there would be no commercial development allowed between the Trade Center and the proposed development at 84th and Hwy 2. We accepted this on faith and that is one reason the neighborhood association agreed to the commercial designation at 84th and Hwy 2. This type of promise made by elected officials is not worth believing. Is it any wonder that the citizens are cynical about their local government processes?

The new Planning Director has made clear that she believes there is no point in having the Comprehensive Plan if it is changed repeatedly in response to developers. The Planning Commission has an opportunity to support the planning director and redress what was a wrong committed for the sole purpose of maximizing profits on a speculative venture to the detriment of the neighborhood and the people who live there.

2. Christine Kiewra, 6400 So. 66th, President of Country Meadows Homeowners Association, testified in support. "We are here today to fix an error that happened." The lack of planning has resulted in strip development in nearly every entryway to the city. It will happen again on Hwy 2 unless this error is fixed. Since 1991, commercial proposals have been discussed for 70th and Hwy 2. The factsheets about meetings that have occurred list the same reasons each time why commercial was denied. The Trade Center is supposed to be the buffer--the change from commercial easing into residential. There should not be commercial development closer than one square mile to each other. We are being bombarded with commercial in this part of town. Consumers aren't here asking for more places to shop. The entryway to the City and the Capitol View Corridor needs to be protected--this is very clear in the Comprehensive Plan. If the Comprehensive Plan is going to be changed, it should be considered very carefully and should be fully studied. There has been no market analysis, no traffic study, no fire and safety study. If the Comprehensive Plan is going to be changed, the impact on the surrounding land must be considered very carefully. Any commercial development of 70th and Hwy 2 would have a considerable impact on the surrounding neighborhoods. The property value would decrease; the trash that commercial property brings, the light pollution, the noise pollution, all would be detrimental. Traffic is another detriment. Many of these neighborhoods do not have sidewalks or curbs. There are a lot of pedestrians and bicyclists on these roads.

Given all this history, why would the Comprehensive Plan ever been changed? People were duped. She thinks people were lead to believe that the Berean Church, Lord of Life and Livingston all wanted commercial. This is not true. People were lead to believe that

the designation or use of this property somehow affects who would pay for the cost of city sewer to this area. If this land is commercial or residential has no bearing on the city sewer services. We were lead to believe that the surrounding area is not low density housing, but it certainly is.

There are beautiful homes and striking lots. All of the homes are on large lots. We could complete a beautiful corridor on Highway 2. People were lead to believe the Commission should not think about the surrounding properties. Country Meadows has the same three streets.

We were lead to believe that delaying commercial approval would diminish the quality of commercial that would go in there. She thinks this is a threat and not true.

We were lead to believe that there is enormous amount of pressure to develop Highway 2 as commercial. Livingston is the only person that wants to develop Hwy 2 commercial. The mistake was made. Nothing significant has changed to warrant commercial on this property. No studies have been done; there have been no requests by the church or Pine Lake for city sewer; new homes continue to be built.

Changing this two years ago was a huge mistake and this is the last best chance to correct it. Consider all the letters from other neighbors; think about all the residents of Lincoln; think about all the visitors to Lincoln.

Hunter discussed Pine Lake, the development bordered on the east by 84th Street with the corner touching Hwy 2. This area is low density residential, although she knows this development has an incredible problem with their sewer treatment and that is because of density. They have problems with drainage in those areas. A lot of that land is not conducive to residential development. Adding more to that existing problem is troublesome to her. The testifier is aware that Pine Lake Homeowners system is in complete compliance with codes and is not failing. Dr. Eppel also explained that there is a sewer line going out to that area now, so it is right up to the border of the property in question. We are not talking about septic system.

3. Harold Mosher, northwest corner of 70th and Hwy 2, directly or diagonally opposite this property, testified in support. He is not against someone making money. He does not believe that money is the root of all evil. To the contrary, he believes that money is the root of all that is good. He believes that in an organized society there is a room and place for zoning to keep compatible interests together and keep other compatible interests also together. No one in his right mind would recognize or even support a boiler factory being placed at 13th and O Street. A used card lot is not inherently evil, but the problem comes with the activity they generate, i.e. lights 24 hours a day. This is an area in which people came out and built their homes after securing a parcel of land. He and his wife secured their land in 1959 and they've seen a lot of change. They did not move out there to have a car lot across the street; they did not move out there because they wanted to have high

density housing next to them; they moved out there solely because they could have some space. They came out there to have a type of lifestyle. He thinks every one of his neighbors has at least an acre of land. They came out there so they could have a little room to keep a horse, so that the children would have a place to play. "Don't take that away from us." Don't put some kind of a commercial development in the middle of our neighborhood. It has been residential from the word go. People aren't anti-business. They just don't want to live next to a boiler factory. Their homes are a substantial investment.

4. Ronald Hill, 7601 Pine Lake Road, on the eastern border and across the street to the south, testified in support. His home is surrounded by pine trees. He sees something that Nebraska stands for. The entrance of Lincoln has always been a beautiful site from Highway 2. He knows his property values would go down and there would be light pollution in his yard; and he knows for a fact that the city would have more taxes than he could generate. Nevertheless he urged that this be retained as an acreage area.

5. Lynn Zabel, business manager for Lincoln Berean Church, spoke in a neutral position. As a church, they have not officially put forward a position on this application. The Berean Church has been annexed by the City; they do support a sewer system and realize that at some point it will be necessary for the Church's use; they are in their own development and completing one new building and additional parking lots and planning more expansion; they are concerned with traffic; they paid for a traffic study to build their access road which goes across the Livingston land; they have to be sensitive with the issues of light because of the neighbors to the north and west. At this point, the Berean Church is neutral; they are part of the city and do support responsible sewer development; they do have concerns about lighting, pollution and traffic.

Steward asked what percentage of the church membership resides in the southeast area of the city. Zabel did not know. He believes it would be characterized by saying they have over 2000 people there on a weekend and he believes the majority come from the greater southeast area, but they draw people from Beatrice, Bellevue, Auburn, etc.

Hunter noted that the church property is located on the north side of Highway 2 and 70th. She inquired whether the church owns a good portion of the land across the street. Zabel stated that the Berean Church owns nothing other than on northeast corner of Hwy 2. The driveway is not a public street and was built in conjunction with the Livingston property. The church has an easement.

6. Beverly Mosher, who owns property on the northwest corner, testified in opposition. Their property is annexed and they are on the city sewer system. She is opposed to any kind of commercial development on the property. It would spoil the nature of the entire neighborhood.

Opposition

1. Mary Jo Livingston, 7420 Yankee Hill Road, testified in opposition. She appeared and requested the commercial designation two years ago on property bounded by 70th Street, Highway 2, and Pine Lake Road, which is designated to be 4-lane in 2000-2005. She achieved the commercial designation with only one dissenting vote. Many of the arguments are the same as they heard two years ago. There is a fear that it will look like Cornhusker Highway and that it might affect the entrance to the City. Livingston stated that she is pledging the same pledge--she wants to provide Lincoln with a quality development; she wants an attractive entrance to our city and she does not want to represent Cornhusker Highway in any shape or form.

Livingston went on to state that there has been a water main constructed in 70th; 70th is currently being four-laned; they have a median break and curbcuts to the property. She could have cleared trees; she could have moved dirt; but she chose to leave the trees. There was criticism for not making an application for change of zone. Two years ago, she was told by the Planning Commission and the City Council that they did not want to see an auto mall and she gave up a sure thing in exchange to try to be sensitive to the wishes of the neighbors, the City Council and the Planning Commission. In the meantime, she has been searching for the right user. She has pursued the path she felt obligated to follow. She has not disrupted the land and is now on the brink of securing a more compatible user. She plans to apply for a change of zone within 60 days. She is currently negotiating with other property owners in the area to bring sewer to the area. It is needed. Pine Lake's sewage system has failed and there are other users in the area that need sewer. They would like to sit down with the other property owners to agree upon a process to bring the sewer forward.

Livingston requested that the Commission recommend the property retain its current commercial designation. It is surrounded by four lane roads; it will be better able to help fund the sewer; she promises to provide an attractive entrance; she is asking for the opportunity to continue to pursue those goals.

Newman noted that Dr. Eppel used the term "speculative". How long has the property been in the family? Livingston advised that they have had it as an investment for six or seven years.

Hunter inquired about ownership of the property on the north side of Hwy 2. Livingston advised that she owns the property that abuts the Berean Church. Two years ago this property was designated urban residential. She also promised two years ago to donate a 1-acre site for the park at Edenton South.

Hopkins made some clarifications. It has been portrayed that Livingstons are going after this until they get the answer they want. Hopkins confirmed with Livingston that she is willing to wait until the time is right. Livingston agreed. There are enough parties in the

area that are wanting sewer now and they are willing to cooperate. They have a much less intense user that is interested in the property now. They have no plans to pursue the auto mall.

Livingston also advised that she called the Country Meadows neighborhood on two different occasions to meet with them to discuss what they wanted to do. They met with Southfork, Edenton South, Pine Lake and Amber Hills. Country Meadows' attitude was "don't call us, we'll call you". Livingston wants to meet with them in the future. The door is always open.

Hunter asked whether the prospective tenant would be more service oriented or retail. Livingston responded that it would be more retail oriented.

2. Mark Hunzeker appeared on behalf of **Mary Jo and David Livingston**, the owners of the property. He expressed disappointment in the recommendation in the staff report. A lot of the information in the staff report is a direct takeout of the Comprehensive Plan report done in 1998--the one that supposed somehow slipped by. Hunzeker pointed out that amendment was done during the Annual Review process, which is a very public process covered by the newspaper with publication of notice, etc. He does not understand the "duping" allegation. The report seems to make it appear as if this has gone before the Planning Commission and City Council in the form that it was ultimately approved many times. That is complete nonsense. Eight of the 13 references haven't anything to do with this project. The first few references have to do with a time long ago when the Planning Director was then casting about for commercial sites that were perceived to be needed and mentioned this location as a possible commercial site, but it was not at the instigation of these property owners. Most of those references pre-date the Livingstons' ownership of this property. It appears to be a little bit one-sided.

Hunzeker also expressed disappointment in the report with the references on p.137, Items #4 and #7, where the implication seems to be that because this property owner has not taken any action to change the face of this land, that somehow means that they are not serious and implies that by that inaction it is appropriate to go back to an AG or AGR kind of designation. Hunzeker suggested that the same exact thing applies to 84th & Hwy 2. There have not been any dirt movers out there. It's been in the Comprehensive Plan for a regional shopping center for 6 years. Why not turn that back into farmland? The property south of Yankee Hill Road was designated for an urban village--there's not much dirt moving there either. Does that mean we ought to go back to AG? This is a Comprehensive Plan process and it should be forward looking. What happened in 1994 was that the then Planning Director chose to ignore this property--didn't want to make a decision--knew that there had been controversy over the annexation of Southfork; knew there had been controversy back to the development of the Trade Center and did not want to stick his neck out. We were left to deal with it in 1998 as a separate application and everybody on the Planning Commission and City Council, with one exception, agreed.

Hunzeker then referred to the map on p.141 and pointed to the area between Hwy 2 and Pine Lake Road. The sewer line attached to the Mosher property runs up to bring in Southfork and serves Country Meadows. It will not serve the Livingston property; it will not serve the Berean Church; and it will not serve Pine Lake. There is a lot of area to be served by a sewer that needs to be extended. It has been extended part way in the last year. The developer paid more than his share of an 8" line. There is money in this year's CIP to subsidize over and above the cost of an 8" line. The sewer is a real issue.

The reasons this property was designated commercial two years ago have been discussed. It is surrounded by four-lane roads; the grade of the property is below the highway; the water service is already in place; and there is the need for the sewer. The Berean Church is in the process of a big expansion plan. They need sewer. They are annexed. They have city water. Their alternative in the expansion of their property to having city sewer is to build a couple of lagoons along Highway 2. If this property is not available and is not participating in the cost of bringing that sewer up, you could have some nice lagoons on the north side of Hwy 2. With the possibility of the failure of the Pine Lake system, it could become a health emergency with no alternatives available to serve Pine Lake. Pine Lake should be annexed.

Hunzeker confirmed that the Livingstons are not talking about an auto mall. They did talk to Walmart but they went away because the Livingstons were insisting upon architectural control; the Livingstons wanted a smaller building; the Livingstons insisted upon retaining ownership of the land to have control over future architectural changes. Now they have a developer with a letter of intent in hand from a retailer that will represent a much better project and will be very compatible with this area.

Hunzeker again stated that the suggestion that they have slid this by is simply outrageous. This has far-reaching implications if it returns to an agricultural residential designation.

Hopkins referred to the reference in the staff report that the Beal Slough Master Plan shows no improvements for this site. Hunzeker does not believe this has any relationship to the Beal Slough Master Plan at all. It's a worthless statement. There is nothing in that master plan that discusses this property at all. It is Hopkins understanding that no matter what improvements the Livingstons make, it is not supposed to add to issues such as the Beal Slough flooding problem. Hunzeker stated that the Livingstons fully expect to comply with all the stormwater detention requirements. They will be proposing a zoning district which requires a use permit and it would be highly unusual that anybody would allow them to have a use permit and not comply with the detention requirements.

Staff questions

Steward inquired about the process of requesting this change to the Comprehensive Plan. Henrichsen clarified that the commercial designation previously came forward through the Annual Review of the Comprehensive Plan from Mary Jo Livingston in October or

November of 1997. He also suggested that it was not “snuck” through. The report came out in January; there was a public hearing before the Planning Commission; there was then a joint public hearing before the City Council and County Board; and then the two bodies acted upon the application separately. The amendment was in context with a series of other amendments. The neighbors did appear in opposition at the City Council and County Board public hearing.

Steward asked the staff to comment upon the implied threat of a health emergency. Henrichsen stated that his comment on the Pine Lake SID was that he is not aware of any health violations at this time. In the past, their sewer system was cited by the DEQ. The Planning staff keeps in constant contact with the City/County Health Department. Henrichsen does not believe he stated that it was in compliance. The Planning Department does have an annexation report underway to annex the Pine Lake SID area; however, since it is an SID there are a lot of issues involved. At this time, he is not aware that they need to be connected to the city sewer; however, the city is looking at connecting them at some point in the future.

With regard to sewer demand, Steward asked whether the permitted commercial activity as presently zoned would put any more or less pressure on demand than the requested AGR zoning. Henrichsen is not aware that Public Works has a concern for the capacity of this 40-acre site, whether commercial or low density, and is not aware that it would generate enough difference in the terms of capacity.

Henrichsen also explained that the comment made to the neighborhood association in terms of the financing of the sewer was that it could be done through the CIP, assessment districts or developer contributions. At this time, the CIP does not include the full funding for this sewer.

Hunter asked Henrichsen to discuss the sequence of events. Henrichsen stated that the only thing missing is the public hearing before the Planning Commission in February, 1998, during the Annual Review. It was approved in March, 1998, by the City Council and County Board. A change of zone has not been approved. This property has not been rezoned and there have not been any improvements; however, this notation was in response to the question as to whether it could be changed back to a previous designation.

Hopkins commented that she is constantly amazed that someone can change someone else's property, particularly when the owner does not agree with the change. Rick Peo of the City Law Department advised the Commission that this is being reviewed in the concept of planning for the city and the overall effect of the growth. That allows the City Council or individual property owners or the public to make their requests as to how the city should be developed. The person doesn't have unique control over ownership to affect the overall growth planning for the City. The Comprehensive Plan is community involvement and anyone has a right to make an application as to the overall designation of the property.

It doesn't happen a lot but it has happened in the past. Hopkins has some concern that we're in a situation where people don't agree with how we voted and it is really a motion to reconsider. Peo stated that typically timelines are put on some of these types of issues to take away the repetitiveness.

Response by the Applicant

Dr. Eppel conceded that maybe the Livingstons did not try to sneak this in, but the neighborhoods were not notified before the Planning Commission hearing about the proposed amendment; they were not notified as neighborhood associations; they found out the day before the meeting. To the neighbors, it looks like it was not something that was done in full view of the neighbors and the neighborhood associations. They had to scramble to come to the meeting and give their views and it was only the City Council that got to hear from them. Dr. Eppel believes it was outrageous that they got no notification about that meeting.

Livingston says she wants to do this as a quality development. Why did she want the auto mall in the first place? Then she went to Walmart. Again, Hunzeker said the reason Walmart went elsewhere was because of their insistence on quality issues. Dr. Eppel wrote to Walmart and he believes that was one of the big reasons why they left. It wasn't just on the basis of what Livingston wanted.

There is a commercial designation at 84th & Hwy 2. The neighbors or homeowners moved into that area knowing that there would be a commercial designation there and knowing that there would be no commercial development between the Trade Center and 84th and Hwy 2. Are these homeowners supposed to now sell their homes because their property values will be reduced? Are they supposed to ignore those promises? He is asking the Planning commission to reconsider something on the basis of information that was not available at that time.

We keep hearing about the four-lane highways around this property. Eppel noted that there are four-lane highways around Southfork. That is a non-issue.

Dr. Eppel also believes that Hunzeker's characterizations of the previous Planning Director are inaccurate. He is not here to defend himself but he believes that those issues that were raised by Hunzeker would be best addressed by Mr. Stewart himself. He was not in favor of this property being commercial.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 8, 2000

Steward moved to support the staff recommendation for the alternative plan to an AGR designation. Motion failed for lack of a second.

Hopkins moved to deny and retain the current designation, seconded by Taylor.

Hopkins does not feel like she was duped or that it slid by. It has been under careful study for a long time. It was a matter of working very hard to find the right time and the right use. She appreciates working with developers who do care about integrity. She lives in this area. She supported commercial because she felt shopping in southeast Lincoln was awful. Shopping is something we all do. We need places to shop. No one is protected from that, certainly not along a highway. She did not object to the auto mall with the landscaping that was going to be provided. A designation requested by someone else on other people's land bothers her. It will not be allowed to make more of a problem for Beal Slough. The communication has been dealt with before because when it goes through as a Comprehensive Plan amendment the neighbors do not get noticed in the same way as a change of zone. She appreciates the fact that the developer has had patience in waiting. She supports retaining the designation.

Newman confirmed that anything that happens on this land has to come through this Commission. She also understands that the Livingstons do quality development and therefore we still have the right to review whatever is developed on the site.

Steward concurred, except that it will be commercial--it will not be residential. People in the neighborhood would like it to be residential. He also understood fully how he voted on this previous issue and he feels even more strongly now that he has heard from people in the neighborhood that he was correct in his previous vote. There is enough commercial to serve this neighborhood either in place or planned at 56th and at 84th in the future. It does not need to be in the middle. This is a situation that he hopes the general public will pay some attention to. Changes in the Comprehensive Plan are very easy for those who know how to work the system, and they are very obscure for those that don't take the time to keep up with the system. There was no notice to the neighbors. There was notice, however, that the Comprehensive Plan was being changed and everyone has the opportunity to come before this body to testify. It is not like a change of zone. He can understand how residents might have felt that something was happening that they did not know about. He also understands the argument that everything was above board because that is how the process works. This will be the second opportunity to rectify a mistake. Not everyone at this table was on the Commission and had the chance to vote earlier. You now have the chance to better respect a high quality neighborhood; to better respect the entry potential for the city. We have a commitment to the people who live here; the purchaser of this property should have known of the so-called "health emergencies" that might result in this area; they knew what the grading conditions were; they knew it was not ideal for commercial development; and he believes they have been searching for

something that is going to return the cost of the purchase of the land. The auto mall turned out not to be an idea that anyone was in support of and he is relieved that Walmart turned it down. We do not need another one. If it is commercial, it will be too great a distinction for this area.

Hunter sees a real significant need for neighborhood type services—dry cleaning, etc.—but in developing shopping centers in the past, she also knows the impact they have on neighborhoods. There are so many pluses and so many negatives. In reading the material, she agrees 100% with the Planning Director's feeling that a Comprehensive Plan is set aside for a purpose of having a plan so that people have the ability to have some faith in how things are going to be developed so that they make their investments accordingly. In that respect, she understands the neighborhood. She was opposed to changing the designation back to AG, but in the process of learning and until she sat down today, she did not realize there was commercial designated at 84th. Urban Residential is across the street. We don't have a square that was going to be commercial, we have a triangle. If she had been on the Planning Commission at the time it was first voted upon, she probably would not have voted to allow commercial at that time.

Duvall commented that we're talking about amending the Comprehensive Plan and it's a multi-stage process with the Planning Commission, City Council and County Commissioners. There was opportunity for public input. The majority voted for the commercial designation. Now, in effect, we are asking for downzoning of the area and he believes it is grossly unfair. We went through the public process.

Schwinn believes there is a need for some commercial in this area; there are lots of places where you see commercial developed in amongst residential; Southfork and Country Meadows are prime examples of urban sprawl and exactly what we talk about not wanting to see in the future, creating more vehicle miles to get to commercial areas. One thing about this site that is unique from all the others is that it is actually lower than Hwy 2 which makes it undesirable for residential. He believes commercial is an appropriate designation.

Motion to deny carried 7-1: Hunter, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn voting 'yes'; Steward voting 'no'; Bayer absent.

CHANGE OF ZONE NO. 3220
TO AMEND THE ZONING ORDINANCE
REGARDING PERMITTED SIGNS IN THE
0-1, 0-2 AND 0-3 DISTRICTS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

The Clerk announced that the applicant has requested that this application be placed on pending until a similar application by Nebraska Sign Company has been acted upon by the City Council.

So moved by Steward, seconded by Hopkins and carried 8-0: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn voting 'yes; Bayer absent.

SPECIAL PERMIT NO. 1823A
TO EXCEED THE MAXIMUM HEIGHT PERMITTED
IN THE ZONING ORDINANCE TO ALLOW 126'
LIGHT POLES ON PROPERTY GENERALLY
LOCATED AT NO. 6TH AND CHARLESTON STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Jennifer Dam of Planning staff submitted a memo from LES indicating that the proposal meets the city's standards for outdoor recreational lighting.

Proponents

1. **Kent Seacrest** appeared on behalf of **NEBCO, Inc.** for the Lincoln Ball Park project. Last month four different land use applications were approved, including a special permit for 100' light poles. This is an amendment to that special permit for two of those poles to be 126' tall. The letter submitted today from LES shows that the two taller poles meet the design standards. The two poles need to be backed out of the stadium behind the stadium for aesthetic and security reasons. They will be at the same angle but it adds 26'.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 8, 2000

Hopkins moved to approve the Planning staff recommendation of conditional approval, seconded by Newman and carried 8-0: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn voting 'yes'; Bayer absent.

Note: This is final action by the Planning Commission, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

COMPREHENSIVE PLAN AMENDMENT NO. 94-40
TO AMEND THE LINCOLN LAND USE PLAN,
TRANSPORTATION, UTILITY, PARKS AND TRAILS PLAN
AND OTHER NECESSARY AMENDMENTS TO
REFLECT COMMERCIAL, INDUSTRIAL, URBAN
RESIDENTIAL, PARKS AND OPEN SPACE AND
NATURAL/ENVIRONMENTALLY SENSITIVE LAND
USES IN THE GENERAL VICINITY OF NO. 14TH TO
NO. 27TH STREET, NORTH OF INTERSTATE 80
TO ARBOR ROAD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn; Bayer absent.

Steve Henrichsen of Planning staff submitted additional information, including a memorandum to Hopkins and Steward in response to questions asked at the last hearing. The Parks issue will be addressed in the future. Parks is aware of the need for a neighborhood park and this issue will be worked out with future preliminary plats and annexation agreements. There is not a requirement for market study as part of the Comprehensive Plan amendment. With regard to pending entryway standards, the city is very close to signing the contract with the consultant. This memorandum lists some of the known costs, but this is a preliminary cost estimate and not a full list of all the infrastructure improvements.

Henrichsen also submitted letters from residents in the area as a result of the open house held on March 9th. The letters are opposed to any improvement or designation of Pennsylvania Avenue as either a collector or arterial between 1st and 14th Street. Pennsylvania Avenue or Humphrey are two streets currently running east/west between 1st and 7th. Public Works and Planning have been looking for either one of these to be improved because Fletcher will not be suitable as an arterial street. The Comprehensive Plan amendment, however, does not designate either one as a collector at this time.

Henrichsen also submitted a memorandum from the Director of Planning to amend the proposal to designate a natural/environmentally sensitive area. Mike Morrow had expressed concerns about the area designated as Parks and Open Space on the Campbell property. The tree mass and drainage way area had previously been designated as parks and open space; however, after discussions with Mr. Morrow, Tom Haase, Mark Hunzeker and Bob Hampton, the proposed amendment is that the area along the existing drainage way and 60 feet to either side would be designated natural and environmentally sensitive with urban residential to the south and industrial to the north.

Henrichsen then submitted additional information from the Department of Roads received last Friday from Mark Ottemann. Based on the future 6-laning of the Interstate and topography, they have proposed noise contours for a 66 dbL level area and a 71 dbL level area that would extend from 14th to 27th Streets. This means that there should be a buffer distance between the centerline of the Interstate of 552-772 feet in which residential and park and open space uses should be buffered from the Interstate. It also suggests a buffer of 267-340 feet for any industrial or commercial buildings from the centerline of the Interstate. The width of the Interstate from centerline varies but in general it is around 150'.

With regard to the NDOR letter, Henrichsen advised that the staff continues to recommend that the Study Area Plan be approved as proposed. But certainly there is a need for additional discussion with NDOR and others as to the impact of this analysis on this property and along property along the Interstate throughout Lincoln and Lancaster County. This analysis could affect the N-1, N-2 subarea plan as well.

Proponents

1. Mark Hunzeker appeared on behalf of Hampton Development Services, the applicant. We have had a very good experience in working with the staff on this project. It began with the announcement that Centurion had chosen a site near 27th & I-80 as its preferred location for a new plant. Centurion is a business that is a major employer in Lincoln which has a need for high visibility and prestigious location in order to attract the talent they need to continue to be competitive. They began with a number of questions that needed to be answered as to whether this property could be served with sewer; whether there was adequate infrastructure to serve it with water; the state of the roads, etc. They have worked through an awful lot with the staff. There is a long way to go to get to the plat, but from his perspective they believe they have had nothing but very good cooperation from the city staff.

Hunzeker reported that the applicant is almost in 100% agreement with the staff report. The disagreement is limited to one particular area, and it is an area affected by the memo from the NDOR. After considerable discussion with the staff, they have come to the point where the applicant is proposing an area along and north of the interstate to be industrial/commercial, which exceeds the area that the staff recommendation shows for

industrial . The reason they have disagreed with the staff is that in the original application, they showed the area from 27th Street all the way down as industrial. The staff did not want to have the transition from industrial to residential take place on the west side of 14th Street. They want the transition to take place on the east side on the applicant's property.

There is a substantial noise impact of a 6-lane highway which adversely affects residential development. The applicant intends to have design covenants on all buildings which will require the use of masonry and concrete type materials which will require other design criteria which they believe will make for a very attractive entrance into the city. Hampton has met with the entryway consultants for the City and there is no doubt that their proposal will be at least as restrictive or at least as intense in terms of landscaping and design as anything that the consultant will recommend. They have an interest on the south side of the highway zoned for commercial, with similar design covenants and expect the entire corridor will be very attractive and well-developed. He requested that the Commission modify the amendment to include the area they desire as industrial.

2. Bob Hampton, developer of Stone Bridge Creek, shared his vision for this new development, where he anticipates to build an urban village on the side of a 100' hill on the north side of the Interstate where people can truly live, work and play. He showed computer renderings of the anticipated look of Centurion International. All the buildings along the Interstate will be tilt-up concrete, concrete block or brick, with limited steel. They will be very high quality buildings like you see in metropolitan areas such as Denver. He wants to go for a timeless, traditional historic look and showed examples of tilt-up buildings that have been built in North Carolina.

Hampton assured the Commission that his goal is to create the nicest, if not one of the nicest entryways into the City. They are on schedule to accomplish the goal of the Centurion International Global Headquarters to be under construction yet this year.

Steward's concern all along has been how close the development is going to be to the right-of-way and how much opportunity the city will have in the entryway design standards for berming, landscaping and circumstances not necessarily directly required of this project yet. Now we have evidence that there are recommended decibel levels even for industry. Is it possible that you could respect the 300' corridor setback for the buildings? Hunzeker is not sure. He has not had the opportunity to study the NDOR report. He is not certain those guidelines mean that you should not have a commercial or industrial structure within those contours. Steward indicated that they would fit his corridor setback concern. He wants to know how much flexibility they have to accommodate a broader setback. Hunzeker suggested that for buildings he believes they will be back a considerable distance. Parking will likely be less than 300' from the right-of-way. They have assumed approximately 50' setback even for parking, so when you talk about parking lot of sufficient size for a company like Centurion, it would not be surprising to have that setback for the building be well over the 150'. Steward believes the development would be much better respected the more distance they can hold it back from the Interstate right-of-way.

Steward also has concern about the roof material. It is a fact that you come off of a hill looking into this site. It leaves in question looking down on the roofs of this development from both long distance as well as close. Steward is suggesting something other than a raised metal roof on portions of the building.

Hampton explained that the plant side of the building is anticipated to be a two-story plant, so there would be the opportunity for a lot of windows around the large plant portion. The renderings are very preliminary. The Centurion owners are committed to build a very high quality building. This will set the standard and tone for the rest of the development. Hopkins believes the back side is less appealing.

Hunter wanted to know who will pay for the infrastructure. Hunzeker agreed that to be a big question. There will be a sewer built up to the point where they cross under I-80 with the drainage very soon. It is under construction. There will be a need for a 27" trunk sewer that will serve the area and areas beyond the building. There is another sewer which will come up through the Anderson Ford property to serve the area where the Centurion plant will be and some other area on the east side of the ridgeline. Water will also come up North 14th Street. 14th is paved; Arbor Road is paved; 27th Street is paved. They will be constructing a new Arbor/Alvo Road which will join Alvo and Arbor some distance west of 27th Street. How soon all this has to happen and who has to pay are questions that need to be addressed as they move forward with the preliminary plat phase. The city has done some preliminary traffic runs. The applicant has an engineering firm ready to do a full-blown traffic study. There is not a firm timetable for sewer and water. The original proposal was to include the area east of the ridgeline because it is in the same drainage basin. They had intended to put a privately owned lift station at the plant location to simply pump over the little ridge, but they do not need to because they can go under the Interstate and there is capacity.

Hunter is still concerned about how this will all be paid for. Hunzeker knows that the phasing of improvements will be an issue that needs to be discussed. The big issue is always streets.

Hampton noted that currently where Anderson Ford, Cracker Barrel and some of the motels are being built, there is a real lack of water pressure and this is going to help that situation. This will create a road running from the Abbott Sports Complex to Fallbrook.

3. Mike Morrow testified on behalf of the **Campbell family**, owning the property initially labeled as parks and open space, through which the 27" sewer line will come and the water main will come. They have met with the staff and the staff is proposing an amendment designating the drainage way and 60' on either side as an environmentally/natural sensitive area. He is in favor of that amendment.

Morrow urged that the Planning Commission needs to find a way to get notices out on amendments to the Comprehensive Plan in a better way.

In addition, Morrow suggested that if this property is designated as park and open space, it is likely to stay that way forever and the Campbells would be opposed. They believe that is a taking. Unless the amendment for the natural/environmentally sensitive area is adopted, the Campbells are opposed to this entire Comprehensive Plan Amendment.

Morrow believes that his client is trying to help Centurion. The I-3 area requires at least a 75-acre tract to go forward with annexation. As this moves through the process, let's not shortchange it; let's not just bend over backwards and not pay attention to the existing rules that are in place to accommodate Centurion. He does not want to see Centurion be the Emerald on the top of the hill and have the rest of the site not be developed. When this comes forward, the Commission needs to remember that this is for a 500-acre tract of ground north of the Interstate—traffic, water, storm sewer, sanitary sewer, for the entire area, not just for one building site.

Hopkins asked Morrow whether he supports the applicant's proposed amendment for the additional area to be industrial. Morrow would support the applicant's requested amendment. Based on the federal regulations, it looks like the decibel levels that would be generated by the Interstate would be unacceptable for residential development in that proximity of the Interstate. The feds do not want to see parks, open areas, or residential development along the Interstate.

There was no testimony in opposition.

Staff questions

Steward has concerns about the NDOR information. What does it mean if we accommodate this? Henrichsen believes it raises a lot of questions. We need to first clarify the federal regulations. He does not believe it prohibits development. Certainly, the implication is that we would somehow have to strip the Interstate from one end of the community to the other end with commercial and industrial uses in terms of noise contours. We need to determine what this might mean for the entire community. Steward suggested that there either is already passed or is in the works significant federal funding to recognize community impact of federal transportation networks and systems, so this may mean that there are other choices. It can perhaps be green space buffer and he thinks it should be a part of the entryway and platting decision process as this comes forward. Staff agrees that there are a lot of different options. Henrichsen suggested that it is possible this southern end may not be part of the first change of zone and preliminary plat, but the issue will be noted as changes of zone do come forward along this corridor.

Henrichsen noted that Hunzeker's amendment refers to a 30-acre parcel. The amendment could reference the map on p.111 of the Study Area Plan as the office and industrial area south of Humphrey and the tree mass.

Hunter inquired about the remainder of the development. Hampton stated that the time schedule is to get Centurion under construction late this year with site grading and utilities in 2001; he anticipates some single family housing in late 2001-early 2002; he also anticipates that some additional companies will want to locate out here and once you start having the jobs and the housing, we will probably see some apartments, offices and complementary uses. There are three landowners included in the Comprehensive Plan amendment.

Hopkins stated that her questions will be about land ownership as it applies to the Comprehensive Plan. Hunzeker indicated that they have had conversations which put the owners on notice that they are proceeding; however, in the process of working through all these things, they have been meeting with staff weekly for three or four months and it is easy to get caught up in that and not touch every base you should along the way. He concurred that they should have had an agreement in Mr. Morrow's hands a long time ago. Both from the applicant's perspective and the city's, the concerns relative to the parks and open space issue were not top of mind. There were no computations that showed any sort of large detention cell there. The applicant agrees with the change that staff has recommended. The applicant is still in discussion with Mr. Morrow and his client about the potential acquisition of that property.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 8, 2000

Hunter moved to approve the Comprehensive Plan amendment with the revision proposed by the staff, and the change from residential to industrial for the area requested by Mr. Hunzeker, seconded by Hopkins.

Duvall commented that noise is a part of our lives and he appreciates the information from NDOR.

Steward wants to see the inhabitable space further away from the Interstate.

Motion for approval, as revised, with amendment, carried 8-0: Hunter, Steward, Hopkins, Taylor, Newman, Krieser, Duvall and Schwinn voting 'yes'; Bayer absent.

OTHER ITEMS NOT APPEARING ON THE AGENDA

March 8, 2000

Members present: Hunter, Steward, Hopkins, Taylor, Krieser, Duvall and Schwinn; Bayer and Newman absent.

Danny Walker read the Letter to the Editor from Cheryl Burbach of the North Bottoms Neighborhood criticizing the baseball facility. Walker thought that the comments made by Newman and Bayer in regard to there being no opposition from the neighborhood at the

public hearing were not necessary. That neighborhood was not contacted by the City about the proposal. There had been no meetings by the City.

Schwinn disagreed. There was a meeting held that was covered in the newspaper. The neighborhood association treated all the representatives very poorly. That was covered in the newspaper. Walker believes the city has signed a death warrant for that neighborhood. The only thing that will be left is renters and investment owners.

In addition, Mr. Walker submitted a letter he had written to FEMA to make sure that the city does not have an alternative to escape financial responsibility when people get flooded.

In other business, Hopkins requested that the Planning Director let the Commission know how other communities handle notification for Comprehensive Plan amendments.

There being no further business, the meeting was adjourned at 6:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 22, 2000.